



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------|-------------|----------------------|---------------------|------------------|
| 10/002,620 | 12/05/2001 | Atsushi Sakamoto | 401471/CHISSO | 1955 |
| 23548 | 7590 | 01/03/2005 | EXAMINER | |
| LEYDIG VOIT & MAYER, LTD | | | SAYALA, CHHAYA D | |
| 700 THIRTEENTH ST. NW | | | | |
| SUITE 300 | | | ART UNIT | PAPER NUMBER |
| WASHINGTON, DC 20005-3960 | | | 1761 | |

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|--------------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/002,620 | SAKAMOTO ET AL. <i>(JN)</i> | |
| Examiner | | Art Unit | |
| C. SAYALA | | 1761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 October 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 4-32 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 14-19 is/are allowed.
- 6) Claim(s) 4-13 and 20-32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Specification

The amendment filed 6/18/2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The introduction of 0.013 in the specification as amended could not be found even though applicant has pointed out to pages 9 and 32 of the specification. No basis for this change could be found at these pages and no reason for this change at this time, in the middle of examination, has been provided which has any basis in the specification itself.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 4-13 and 20-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant points out to pages 9 and 32 of the specification to provide basis for the introduction of 0.013 into the claims. However, the basis for this change could not be found. When applicant has pointed out proper support, this rejection will be withdrawn.

Claim Objections

2. Claim 29 is objected to because of the following informalities: The amendment points out that the claim is "Currently amended". See claim identifier. However, the claim has not been amended and it is not clear if this is an oversight. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 4-7, 20, 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Bardsley (US Patent 3979198).

Table V teaches a mixture of potassium metaphosphate and urea-formaldehyde as a nutrient filler particle and meets claims. Note the amounts that appear to overlap with those claimed. As for claim 20, which includes the step of adding to the urea/aldehyde condensation product, a sparingly soluble phosphatic fertilizer, the reference teaches just that and therefore, meets the limitation describing the physical characteristics making it inherent.

4. Claims 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas et al. (US Patent 3130038).

Claim 10 is exemplary: a granular fertilizer composition includes dicalcium phosphate and urea-formaldehyde resin fertilizer. As for claim 20, which includes the step of adding to the urea/aldehyde condensation product, a sparingly soluble phosphatic fertilizer, the reference teaches just that and therefore, meets the limitation describing the physical characteristics making it inherent. Size is given at claim 5.

5. Claims 4-8, 20, 22, 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Rehberg et al. (US Patent 5174804).

See claims 7, 9 and 12.

6. Claims 4-8, 20, 22, 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Aoki et al. (US Patent 5549730).

See col. 2, line 55 to col. 3, line 12, which teaches urea/aldehyde condensation products mixed in with fused phosphate fertilizer or prepared phosphate fertilizer in a grain size of 1mm or more.

7. Claims 4-8, 20, 22, 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Kempf et al. (US Patent 5554577).

Col. 8, lines 25-40, shows a typical fertilizer that contains urea-formaldehyde and dicalcium phosphate. Claim 13 shows the size of the granule or particle.

8. Claims 4-8, 20, 22, 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0968980.

See the abstract which teaches the size of the fertilizer particle and claims 4-5 and 8, 16 and 17.

9. Claims 4-7, 20, 22, 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Kealy et al. (US Patent 3119683).

See col. 3, lines 50-65 which discloses a mixed fertilizer product with urea-formaldehyde and mono, di and triphosphates.

9. Claims 4-7, 20, 22 and 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Kealy. (US Patent 2955930).

The patent teaches a fertilizer which combines in its composition, dicalcium phosphate, among others, with urea-formaldehyde. See col. 14, lines 25+ and see claim 5.

Response to Amendment

Applicant's arguments filed 10/13/2004 have been fully considered but they are not persuasive.

Applicant's amendment of claims has caused a search update of these claims and the new art found has been applied. Claims 20 and 22 therefore, have been rejected again based on such search and reconsideration. Applicant has chosen to recite physical characteristics to describe his product. However, the Office is not equipped to manufacture prior art products and compare elution characteristics with those of prior art products. Applicant's declaration has been considered and references that teach mono- and di-ammonium phosphates have been removed. There is no information about the other phosphates of the prior art references and their elution characteristics and therefore such rejections are valid and have been applied.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA whose telephone number is 571-272-1405.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


C. SAYALA
Primary Examiner
Group 1700.